



DEPARTMENT OF ENVIRONMENTAL QUALITY

KATHLEEN BABINEAUX BLANCO

GOVERNOR

MIKE D. McDANIEL, Ph.D.

SECRETARY

FEB 27 2007

CERTIFIED MAIL 7004 1160 0001 9949 5352
RETURN RECEIPT REQUESTED

Mr. Geoffrey Reeder
Manager of Site Remediation
Union Pacific Railroad
24125 Albine Westfield Road
Spring, TX 77373-9015

Re: Eunice Train Derailment 52700
AI# 85276/PER# 20060001
Highway 190 West of Eunice, St. Landry Parish Eunice Train Derailment,
Issuance of a Site-Specific Treatability Variance for Acrylic Acid (U008) in Soils under
LAC 33:V.2231.G

Dear Mr. Reeder:

The Waste Permits Division has reviewed your petition for a variance from a treatment standard for Acrylic Acid (U008) for the soils at the Eunice, Louisiana site on behalf of the Union Pacific Railroad (UPRR), submitted under a cover letter, dated May 20, 2002. It was determined that the May 20, 2002 petition was deficient and a Notice of Deficiency (NOD), dated January 17, 2003 was issued. UPRR submitted responses to the Notice of Deficiency (NOD) under a cover letter dated February 7, 2003. URPP submitted an addendum to the site-specific variance, under a cover letter dated February 6, 2006.

A copy of the site-specific variance dated May 20, 2002, Response to NOD dated February 7, 2003 and the addendum to the request for site-specific variance dated February 6, 2006 are available for review and copying (all documents copied will be subject to a \$0.25 charge per copy page) at the LDEQ, Public Records Center, Room 127, 602 North 5th Street, Baton Rouge, LA. Viewing hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday (except holidays). An additional copy of the site-specific variance and related information is available for review at Opelousas Public Library, 212 E. Grolee Street, Opelousas, Louisiana and the Eunice Public Library, 222 S. Second Street, Eunice, Louisiana and the Church Point Branch, 209 W. Plaquemine, Church Point, Louisiana.

In accordance with LAC 33:V.2231.D, the Waste Permits Division gave public notice of the proposal to grant a site-specific variance. The notice was published in the local newspaper, The Eunice News, in three separate issues November 16, 2006, November 17, 2006 and November 23, 2006 and The Church Point News, in three separate issues November 22, 2006, November 29, 2006 and December 6, 2006 and in the official state journal, The Advocate, November 17,

ENVIRONMENTAL SERVICES

: PO BOX 4313, BATON ROUGE, LA 70821-4313

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Mr. Geoffrey Reeder
Eunice Train Derailment 52700
AI# 85276/PER# 20060001
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2006. The facility mailing list notification was completed on November 17, 2006. The public notice allowed for a thirty (30) day comment period which began November 17, 2006 and ended December 22, 2006 at 12:30 p.m. The Waste Permits Division received one written comment.

Based on the information submitted, the Waste Permits Division hereby issues the attached site-specific variance to Union Pacific Railroad (UPRR). This site-specific variance is effective as of the date signed and shall remain in effect unless suspended, modified, revoked and reissued, or terminated for just cause.

Please reference your Agency Interest (AI) Number, AI# 85276, and Activity Number, PER# 20060001 on all future correspondence pertaining to this petition for a site-specific variance. If you have any questions regarding this matter, please contact Ms. Karla Vidrine of the Waste Permits Division at (225) 219-3061 or Mr. Clinton Twilley of the Environmental Technology Division at (225) 219-3391.

Sincerely,



Chuck Carr Brown, Ph.D.
Assistant Secretary

kav

Attachment

c: Tom Harris – OEA-ET-ADM
Clinton Twilley-OEA-ET-GG2



DEPARTMENT OF ENVIRONMENTAL QUALITY

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SECRETARY

SITE-SPECIFIC VARIANCE FROM A TREATMENT STANDARD

ISSUED TO

**UNION PACIFIC RAILROAD
EUNICE TRAIN DERAILMENT SITE/AI # 85276
EUNICE, ST. LANDRY PARISH, LOUISIANA**

The following **VARIANCE** is issued to **UNION PACIFIC RAILROAD EUNICE TRAIN DERAILMENT SITE** by the Louisiana Department of Environmental Quality (LDEQ) - Office of Environmental Services (OES) - Waste Permits Division under authority granted by the Louisiana Environmental Quality Act, in particular La. R.S. 30:2014; by the Executive Reorganization Act, in particular La. R.S. 36:234; and by Section 2231 of Title 33, Part V of the Louisiana Administrative Code (LAC 33:V.2231), particularly LAC 33:V.2231.G.

This site-specific variance from the treatment standard for acrylic acid in soils at the site replaces the applicable treatment standard with an alternate treatment standard for acrylic acid in soils. Union Pacific Railroad's petition for a site-specific variance has demonstrated that requiring the waste to be treated to the level specified in the treatment standard is inappropriate based on the information contained in the petition and summarized in the Fact Sheet.

This site-specific variance is contingent on Union Pacific Railroad, having the material treated to the alternate treatment standard proposed and in accordance with all applicable permit requirements in a manner consistent with representations made in Union Pacific Railroad's site-specific variance petition of May 20, 2002, February 7, 2003 and February 6, 2006.

This site-specific variance is effective as of the date signed and shall remain in effect unless suspended, modified, revoked and reissued, or terminated for just cause. This action confers no variance outside of Louisiana or other than a permitted Subtitle C Landfill as specified herein.

This variance does not act retroactively and does not excuse any earlier failure to comply with hazardous waste storage, treatment or disposal or notification requirements.

This variance requires that Union Pacific Railroad act at all times to minimize the short and long term threats to human health and the environment.

Chuck Carr Brown, Ph.D., Assistant Secretary
Louisiana Department of Environmental Quality
Office of Environmental Services

Date

ENVIRONMENTAL SERVICES

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RESPONSIVENESS SUMMARY

UNION PACIFIC RAILROAD EUNICE TRAIN DERAILMENT 52700

EUNICE, ST. LANDRY PARISH, LOUISIANA AGENCY INTEREST NUMBER 85276

ITEM: 1

REFERENCE ARCADIS, Inc., Comment No.1, letter dated December 20, 2006.

ISSUE: Change in Soil Treatment Standard for Acrylic Acid.

COMMENT: "ARCADIS, on behalf of its client Union Pacific Railroad Company (UPRR), submits the following comment on the document referenced above (Draft Site-Specific Variance Petition). In order to remain consistent with the agency's Risk Evaluation/Corrective Action Program (RECAP), UPRR requests that the agency set the treatment standard at the RECAP screening standard for the protection of groundwater, to 140 milligrams per kilogram (mg/kg) rather than 100 mg/kg. As stated in the variance request, soil below the treatment standard (now proposed at 140 mg/kg) would remain on site. Soils with concentrations above the treatment standard would be disposed of in a permitted landfill. UPRR believes that this change will promote consistency with the RECAP program and provide a better justification for the selection of the concentration for the standard."

LDEQ RESPONSE: LDEQ acknowledges the apparent inconsistency between the acrylic acid RECAP screening standard for protection of groundwater of 140 mg/kg verses the proposed soil treatment variance of 100 mg/kg. LDEQ used the variance level of 100 mg/kg in the draft variance document and fact sheet that were publicly noticed as this was the value requested by UPRR in their application for a treatability variance. The public has not been given notice of, nor has it had an opportunity to comment upon, the possibility of a variance allowing the higher concentration of contamination to remain in the soil after treatment.

Therefore, the revision of the variance to 140 mg/kg would require a new request for variance be submitted and the

reinitiation of the variance process, including public notice and opportunity for comment.

ACTION:

LDEQ will proceed using 100 mg/kg of acrylic acid as the soil treatment standard.

RESPONSIVENESS SUMMARY

UNION PACIFIC RAILROAD EUNICE TRAIN DERAILMENT 52700

EUNICE, ST. LANDRY PARISH, LOUISIANA AGENCY INTEREST NUMBER 85276

ITEM: 2

REFERENCE General Comment from Phone Calls.

ISSUE: Site Closure and Cleanup.

COMMENT: Three calls were received related to both the treatment variance and the Corrective Action Plan draft decision document. Concerns were noted as follows:

- Generation of dust and fumes during construction of the remedy,
- Need for monitoring of all media to verify effectiveness of the corrective action remedy, and
- Potential impact to irrigation wells and the Chicot Aquifer from the release.

LDEQ RESPONSE: Brief overview of the closure and cleanup of the site

Union Pacific Railroad Company (UPRR) has submitted a Corrective Action Plan (CAP) to address remaining contamination at the site that has been issued for public comments. Taking into consideration comments on the CAP, LDEQ will issue the final decision document that identifies the selected closure alternative or remedy.

During the next phase, UPRR will be required to submit a Remedial Design Plan for approval by LDEQ to implement the selected closure alternative or remedy for the site pursuant to LAC 33:VI.513.A. The approved soil treatment variance will be used in the development of this Remedial Design Plan.

UPRR will also be required to submit a Remedial Project Plan for approval by LDEQ to implement the remedial design pursuant to LAC 33:VI.513.B. The Remedial Project Plan must include monitoring plans to identify potential for impacts to human health and the environment during construction and operation of the remedy.

During implementation of the remedy, LDEQ will perform onsite inspections. Pursuant to LAC 33:VI.517.B, **the department may require that any and all activities be halted at a site if the activity:**

- 1. is not consistent with approved plans;**
- 2. is not in compliance with accepted construction practices;**
- 3. is not in compliance with environmental regulations;**
or
- 4. endangers human health or the environment.**

Monitoring is also required to determine if the approved remedy was successful in meeting the remedial goals approved by LDEQ.

ACTION:

URPP will be required to address mitigation measures in the Remedial Project Plan for the control of dust and fumes during the construction and operation of the selected remedy.

URPP will be required to address monitoring of various media, in the Remedial Project Plan to ensure that human health and the environment are protected and to document the effectiveness of the remedy in meeting the remedial goals.

PUBLIC NOTICE
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY (LDEQ)
UNION PACIFIC RAILROAD
EUNICE TRAIN DERAILMENT SITE
EUNICE, ST. LANDRY PARISH, LOUISIANA

FINAL DECISION TO ISSUE A SITE SPECIFIC VARIANCE

The LDEQ, Office of Environmental Services, has made the decision to issue the site specific variance for Union Pacific Railroad (UPRR), 24125 Albine Westfield Road, Spring, TX 77373-9015 for its Eunice Train Derailment Site. **The derailment site is located northwest of the Town of Eunice, Louisiana, on the northern side of U.S. Highway 190, St. Landry Parish.**

This variance is being issued under the authority granted by the Louisiana Environmental Quality Act, in particular La. R.S. 30:2014; by the Executive Reorganization Act, in particularly La. R.S. 36:234; and by Section 2231 of Title 33, Part V of the Louisiana Administrative Code (LAC 33:V.2231), particularly LAC 33:V.2231.G.

Union Pacific Railroad is in the process of remediating contaminated soil from the train derailment that occurred in May 2000 just northwest of the Town of Eunice, Louisiana, on the northern side of U.S. Highway 190. Corrective Action has been performed at the site to dispose of impacted materials and construct containment structures. Additional investigation has taken place and it has been determined that further remediation of soil is necessary in the area of the rail line. The concentrations allowed to remain on site after remediation are being determined through LDEQ's Risk Evaluation/Corrective Action Program (RECAP). Union Pacific Railroad has submitted a request for a site-specific variance from the treatability standard for acrylic acid in soils at the site to allow any soil containing concentrations of 100 mg/Kg or less of acrylic acid to remain on site and to dispose of the soil impacted by acrylic acid above the concentration of 100 mg/Kg by placement in a permitted Subtitle C Landfill instead of requiring incineration.

Union Pacific Railroad has based this request on the following:

1. Acrylic acid at the site does not exhibit the same nature as the acrylic acid utilized in the determination of the hazardous waste characteristic of ignitability. The waste material polymerized during the release, becoming a solid material, and is no longer ignitable. Although occasional exposed pieces of the polymerized material were found at or near the surface of the ground, no acrylic acid has ignited at the site. Therefore, UPRR believes that the contaminated soil is eligible for the 40 CFR 261.3(g) exemption as a hazardous waste for wastes listed solely for a characteristic, per the USEPA final rule published in the Federal Register of May 16, 2001 (p 27286).

2. The area of highest impact due to acrylic acid contains only a maximum concentration of 240 milligrams per kilogram (mg/kg) of acrylic acid, or less than one tenth of one percent of the mass of the soil. The majority of the samples that indicated acrylic acid impacts were well below the LDEQ RECAP screening standard for the protection of groundwater (140 mg/kg). Therefore, even if the waste material were ignitable, it is inappropriate to incinerate such a large volume of soil for such a small concentration of a characteristic waste.

3. The acrylic acid that is in the soil does not readily leach from the soil. Synthetic Precipitate Leaching Procedure (SPLP) samples collected from the impacted areas of the right-of-way documented that the acrylic

acid is not mobile. Maximum concentrations for Acrylic Acid SPLP samples are orders of magnitude below the concentration that is considered protective of groundwater.

A copy of the issued Site Specific Variance, the site-specific variance dated May 20, 2002, Response to NOD dated February 7, 2003 and the addendum to the request for site-specific variance dated February 6, 2006 are available for review and copying (all documents copied will be subject to a \$0.25 charge per copy page) at the LDEQ, Public Records Center, Room 127, 602 North 5th Street, Baton Rouge, LA. Viewing hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday (except holidays). **The available information can also be accessed electronically on the Electronic Document Management System (EDMS) on the DEQ public website at www.deq.louisiana.gov.**

An additional copy of the issued site-specific variance and related information is available for review at the Opelousas Public Library, 212 E. Grolee Street, Opelousas, Louisiana and the Eunice Public Library, 222 S. Second Street, Eunice, Louisiana and the Church Point Branch, 209 W. Plaquemine, Church Point, Louisiana.

In accordance with Louisiana Revised Statutes (La R.S.) 30:2024, the Permittee may file with the secretary a request for a hearing no later than thirty (30) days after the notice of the action is served. Under La. R.S. 30:2050.21, any person aggrieved by the final decision may appeal to the Nineteenth Judicial District Court within 30 days after the notice of the action has been given.

The public notice of the draft decision was published in the Eunice News on November 16, 19 and 23, 2006 and the Church Point News November 22 and 29, 2006 and December 6, 2006 and in the Advocate November 17, 2006. The thirty (30) day public comment period began Thursday, November 16, 2006 and ended at 12:30 p.m. Thursday, December 22, 2006. The Department received one written comment.

Inquiries or requests for additional information regarding this decision should be directed to Ms. Karla Vidrine of the Waste Permits Division or Mr. Clinton Twilley, Environmental Technology Division, P.O. Box 4314, Baton Rouge, LA 70821-4314 (225) 219-3391 or Fax (225) 219-3474.

Persons wishing to be included on the LDEQ permit public notice mailing list or for other public participation related questions should contact the Public Participation Group in writing at LDEQ, P.O. Box 4313, Baton Rouge, LA 70821-4313, by email at maillistrequest@ldeq.org or contact the LDEQ Customer Service Center at (225) 219-LDEQ (219-5337).

Permit public notices including electronic access to the issued permit and associated information can be viewed at the LDEQ permits public notice webpage at www.deq.state.la.us/news/PubNotice/ and general information related to the public participation in permitting activities can be viewed at www.deq.louisiana.gov/portal/tabid/2198/Default.aspx

Alternatively, individuals may elect to receive the permit public notices via email by subscribing to the LDEQ permits public notice List Server at http://www.state.la.us/ldbc/listservpage/ldeq_pn_listserv.htm.

All correspondence should specify AI Number (AI# 85276), and Activity Number (PER# 20060001).

Publication Dates: Advocate; February 28, 2007
The Eunice News; March 1, 4 & 8, 2007
The Church Point News; February 28, 2007 & March 7 & 14, 2007